

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

Criminal File No. 05-205 (MJD/JGL)

SYLVESTER RICHARDS GAYEKPAR,

Defendant.

David Genrich, Assistant United States Attorney, Counsel for Plaintiff.

Robert G. Davis, Robert G. Davis Law Office, Counsel for Defendant.

The above-entitled matter comes before the Court upon the Report and Recommendation of Chief United States Magistrate Judge Jonathan Lebedoff dated July 20, 2005. Defendant filed objections to the Report and Recommendation, asserting that the Court should defer, not deny, his motion to suppress certain evidence.

Defendant admits that his motion to suppress the evidence obtained from Abdullah Nizh Abdullah's safe was premature because the Government had not yet obtained a search warrant or opened the safe at the time of the hearing. He requests that the Court defer ruling on his motion to suppress. The Government

notes that, since the hearing before the Magistrate Judge, it has now secured a search warrant, opened the safe, and provided a copy of the search warrant and supporting materials to defense counsel. The Court denies Defendant's motion without prejudice, and now that the safe has been opened, he may renew his motion to suppress.

Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); Local Rule 72.1(c). Based on that review the Court adopts the Report and Recommendation dated July 20, 2005.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The Magistrate Judge's Report and Recommendation dated July 20, 2005, [Docket No. 21] is **ADOPTED**.
2. Defendant's Motion to Dismiss the Indictment [Docket No. 14] is **WITHDRAWN**.
3. Defendant's Motion to Suppress Physical Evidence Obtained as a Result of Search and/or Seizure [Docket No. 15] is **DENIED WITHOUT PREJUDICE** as to the evidence obtained from Abdullah Nizh Abdullah and **GRANTED** as to evidence seized from the Chrysler automobile.
4. Defendant's Motion to Suppress Statements, Admissions, and Answers Made by the Defendant [Docket No. 16] is **DENIED AS MOOT**.

Dated: August 26, 2005

s/ Michael J. Davis
Judge Michael J. Davis

United States District Court